SUPREME COURT OF THE UNITED STATES.

No. 369.

THE UNITED STATES, APPELLANTS,

vs.

ANTONIO ROCHA ET AL.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF CALIFORNIA.

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OFFICE OF THE BOARD OF COMMISSIONERS,
TO ASCERTAIN AND SETTLE THE PRIVATE LAND
CLAIMS IN THE STATE OF CALIFORNIA.

Be it remembered, that on this fifteenth day of November, Anno Domino one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board, in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Antonio Rocha, *et al.* for the place named "La Brea," was presented and ordered to be filed and docketed with No. 487, and is as follows, to wit:

(Vide page 3 of this transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

LOS ANGELES, *Novemb.* 15, 1852.

In case No. 487, Antonio Rocha *et al.* for the place named "La Brea," the deposition of Abel Stearns, a witness on behalf of the claimants, taken before commissioner Heland Hall, was filed.

(Vide page 7 of this transcript.)

2 SAN FRANCISCO, *Decemb.* 13, 1852.

In the same case, the deposition of Jose Antonio Carrillo, a witness in behalf of the claimants, taken before commissioner Heland Hall, with document marked H H, No. 1, and translation thereof annexed thereto, was filed.

(Vide page 9 of this transcript.)

SAN FRANCISCO, *Decemb.* 5, 1854.

Case No. 487, was ordered to be placed at the foot of the 3rd class cases on the trial docket.

SAN FRANCISCO, *Decemb.* 19, 1854.

Case No. 487, was submitted under the rule of 21st March, 1854.

SAN FRANCISCO, *March* 6, 1855.

In the same case, Commissioner S. B. Farwell delivered the opinion of the board rejecting the claim.

(Vide page 19 of this transcript.)

And the following order was made, to wit:

(Vide page 21 of this transcript.)

3 *Petition.*

To the Honorable the United States Land Commissioners for ascertaining and settling private land claims in California:

Your petitioner, Antonio Jose Rocha, for himself, and Jose Jarge Rocha, and Josefa de la Merced Jordan, residents of Los Angeles county, State of California, respectfully represents, that they claim to owners in fee-simple of the lands called "La Brea," situate in the county aforesaid, and containing one square league, more or less. That in the year 1828, the father of your petitioner and Jose Jarge, and grandfather of said Josefa de la Merced, joined one Nemesio Dominguez, in a petition to the proper authority of the pueblo of Los Angeles, for grant to them jointly in fee of the said lands of La Brea, all parties believing the same to have belonged to the said pueblo, lying within its limits, and that, consequently, grant thereof was made in fee to said petitioners by the proper officer, Jose Ant'o Carrillo, by decree dated April 8, 1828; that the father of your petitioner died several years since, leaving two sons, your petitioner and Jose Jarge, and [and] daughter, Maria Timotea Rocha,

4 who died after marriage, leaving the said daughter Josefa; that the mother of your petitioner died before his father's decease; that the said Nemesio Dominguez sold your petitioner all his interest in said lands, by deed of conveyance bearing date Oct'r 21st, A. D. 1852. Said lands are bounded and described as follows: On the south, by the rancho of Jamareo Abila; on the east, by the lands of the city of Los Angeles; on the north, by the rancho called "Le Felis;" and on the west, by the rancho of Ricardo Vejar and Rila Villa. Your petitioner is in doubt whether all of the within-described lands of La Brea lie within the ancient limits of the said pueblo, although it was always heretofore believed that the same pertained to said pueblo, and the said grant was always respected by all the authorities of California, from the year in which said grant was made, until the present time. That from the time of the grant, said lands have been occupied by said grantees, or their legal representatives, until the present time, being occupied by house, corral and cattle, the lands not admitting of cultivation, being fit only for pasturage. There is no interfering claim, nor have the lands aforesaid, been surveyed by the United States Surveyor General for California.

5 Your petitioner prays your honorable board, that if it should result that a part of the whole of said lands lie without the limits of said pueblo, in consideration of the long and continued occupation and the respect paid thereto by all authorities of the country, you will be pleased to confirm to him and those he represents in his petition their due proportion to said lands.

He files herewith a copy of said grant marked A; with a true translation marked B, and copy of the deed of conveyance marked C, aforesaid, upon which he relies in support of his claim, and he will rely upon such further documentary and parole evidence as may be thought necessary. And he prays for confirmation of title in property and possession of the lands of "La Brea" aforesaid, to

him the undivided four-sixths part thereof, and to the said Jose Jarge and Josefa, the other two-sixths in equal undivided parts.

And as in duty bound, &c., &c.

Los Angeles, Nov. 15, 1852.

(Signed) SCOTT & GRANGAR,
Attorney for Petitioner.

Filed in office, Novemb. 15, 1852.

(Signed) GEORGE FISHER.

6 *Deposition of Abel Stearns.*

LOS ANGELES, *Nov.* 15, 1852.

On this day, before Com'r Heland Hall, came Abel Stearns, a witness in behalf of the claimant, Antonio Rocha, *et al*, petition No. 487, and was duly sworn, his evidence being given in English.

The U. S. associate law agent was present.

In answer to questions by counsel for the claimant, the witness testified as follows:

My name is Abel Stearns; my age is fifty-four years; and I reside in Los Angeles.

I know the rancho called La Brea; it is about two and a half leagues in the western direction from the city. I have known the place ever since about the year 1833 or 1834. When I first knew the place, it was occupied by Antonio Jose Rocha, and afterwards by his heirs. He had a thousand or fifteen hundred head of cattle on the place, a portion of the time; there was a house on the place which was inhabited, and also corrals. It has been occupied by the family;

7 and the sons of said Antonio Jose Rocha are now occupying it. I believe his only descendants now living are Antonio Jose Rocha, and Jose Jarge Rocha, two sons, and Jose de la Merced Jordan, a grand-daughter.

(Signed) ABEL STEARNS.

Sworn and subscribed before me.

(Signed) HELAND HALL, *Comm'r.*

Filed in office, Novemb. 15, 1852.

(Signed) GEO. FISHER, *Sec'y.*

8 *Deposition of Jose Ant'o Carrillo.*

On this day, before comm'r Heland Hall, came Jose Antonio Carrillo, a witness in behalf of the claimant, Antonio Rocha *et al.*, petition No. 487, and was duly sworn, his evidence being interpreted by the secretary.

The U. S. associate law agent was present.

In answer to enquiries by counsel for the claimant, the witness testified as follows:

My name is Jose Antonio Carrillo; my age is fifty-seven years; and

I reside in Los Angeles. A paper is now shown me purporting to be a permission to occupy land given to Antonio Jose Rocha and Nemesio Dominguez, dated April 8, 1828. My own genuine signature is on said paper, and was placed there at the date to which it is appended. I was at the time first alcalde and judge of the first instance. The petition was presented to me in person by Rocha and Dominguez, who acknowledged their signatures that of Dominguez being a cross. The whole
9 paper is a genuine official document, and what it purports to be. I was president of the Ayuntamiento, and the paper was executed by me with their approbation, after consulting them. The land mentioned in the paper was, at the time, considered as belonging to the town. How it is now, I do not know. Rocha and Dominguez immediately occupied the land, and I believe have continued occupying it to the present time. Dominguez has left the place, and and the present occupants are the children of Jose Antonio Rocha. Whether they occupy in person, or by their agents and servants, I cannot say. It is recognized as their property. Said paper is hereto annexed and marked H H, No. 1.

Questions by the associate law agent:

Before the occupancy of the land by Rocha and Dominguez, it was occupied by the town of Los Angelos; no person lived in it. When the land was lent to Rocha and Dominguez, it was not occupied by Nepomaseno Alavardo, nor any one else. It belonged to the town. Dominguez has left this land, and has gone to another rancho. I do not know that any other grant of this land has been made to these persons.

10 (Signed) JOSE ANT'O. CARRILLO.

Sworn and subscribed before me—

HELAND HALL, *Com'r.*

Filed in office December 13, 1852.

(Signed) GEO. FISHER, *Sec'y.*

11 *Doc. "H H," not annexed to the dep. of Jose Antonio Carrillo, taken before Com'r H. Hall, Nov.* 23, 1852.

PUEBLO DE LOS ANGELES,
8 *de Abriel. de* 1828.

Los interesados en estre instancia pueden formar sus coroles, agraciar sus bienes haber sus labores, en los terrenos que selo han senalado en los misinos terenos condiciones y cir comt ancias que lo han hedro los temas cuidadanos que hun ravido esta gra-

M. Y. A.

Los ciudadanos Antonio Jose Rocha q. Nemesio Dominguez radicados en este pueblo ante la conosida integridad de U. S. haren presente que siendoles preciso poner un pre de grundo q. en alguna parte le aqonte a los necesitades de lo vida y cunesicudo por el finendaendo de sitro en que

giar responsables el cuididaino se solo de olar parte de los exesos q. estan ensu demarcacion.

CARRILLO,

Del numeno de marvivduos poseen.

pruden olesde luigo contar conle seguindad regular por la um q. solicid an de la benessencia de V. S. le digne comeder les el porrage embrado el rancho de La Brea que acupaba anterior mente Neposimo Alvarado con la calidad de intereno y en cuya virtual lo solicitan permit endose les a los representan poder poner el corral necessario y casa por andar luat nolientas caberas que acimbos.

PRO TANTOA.

N. V. S. Dupiican se adlignen proveer como praer en q. verve-
nan gracia, &c.

12 Pueblo de los Angeles, Enero 6, de 1828.

ANTONIO JOS. ROCHA.
NEMESIO DOMINGUES.

Filed in office Dec'r 13, 1852.

GEO. FISHER, *Sec'y.*

13 [Translation of grant.]

MOST ILLUSTRIOUS AYUNTAMIENTO: Citizens Antonio Jose Rocha and Nemesio Dominguez, established in this town before the well known integrity of your honors, represent, that being under necessity to place the rudiment of a stock of cattle that in some part may assist them to the comforts of life, and being in need, for the end indicated, of a tract of land on which they may immediately depend, with regular security for the increasing of stock, they solicit of the beneficienco of your honors to deign to grant them the place called ranch de La Brea (bitumen,) which Nepomeseno Alvarado formerly occupied in a provisional manner, by reason whereof they solicit it to be permitted to these petitioners to build the necessary corral and house, to the care of the number of four hundred head of cattle, which both individuals possess.

Wherefore, they supplicate of your honor to grant it as prayed, whereby they shall receive favor, &c.

Town of Los Angeles, January 6, 1828.

(Signed) ANTONIO ROCHA.
(Signed) NEMESEO DOMINGUEZ.

14 TOWN OF LOS ANGELES, 8 *April*, 1828.

The parties interested in this petition can build their corrals, place their stock, make their fields in the lands which they have signified, on the same terms, conditions, and circumstances as the other citizens have done who have received such a favor, being

responsible for care, and only to report any crime which they may notice within their boundaries.

CARRILLO.

Filed in office Nov. 15, 1852.
(Signed) GEO. FISHER, *Sec'y.*

15 *Copy of deed of conveyance.*

Este documento hecho en Los Angeles, a los veinte y uno dias delines de Octubre, de mil ocho cientos cincuenta y dos, entre Nemesio Dominguez de Santa Barbara de la parte primera, y Antonio Rocha de Los Angeles de la parte segunda hase constar que el de la parte primera en consideracion de un peso que se le deo en el anto de octongar la presente par el de la parte segunder y en consideracion de varios otros molinos ha stavlo, ledido y traspasado y par estas presentas do cede y traspasa a Don Antonio Rocha de la dicha parte segunda, todo el venetro titulo remoso noz y accion al dicho Nemisio Dominguez en el paruga convento con el nombr de La Brea situado como al poniente de la ciudad de Los Angeles engo parage se consedio en el ano de 1828 al pundo han Rocha ya Archo Nemecio Dominguez.

Y se estende este documento o uverne de la parte primera de las albacias nimiotena y de quienes demos representen su persena y a favor del de la parte segundas sus mendenos y quienes le representan.

V puna constancia para al pre de estos in firma y un sello que reconosco en el dia que arriba coresta.

NEMESIO su × cruz DOMINGUEZ.

16 Testigos:

Las nous "Santa Barbara" y' "dicho puentò" se nollun tuitrinas no valen y los voces Los Angeles y Sta. Barbara interlinenados valen.

EUGENE LIES.
CASAMERA LURA.

Filed in office Nov. 15, 1852.

GEO. FISHER, *Sec'y.*

17 *Translation of deed of conveyance.*

This document, made in Los Angeles the 21st day of October, 1852, between Memecio Dominguez, of Santa Barbara, of the first part, and Antonio Rocha, of Los Angeles, of the second part, represents that the party of the first part, in consideration of one dollar, which was given him in the delivery of these presents by the party of the second part, and in consideration of various other reasons, has given,

granted, and transferred, and by these presents doth give, grant, and transfer to Don Antonio Rocha, of the second part, all the right and title, recourse, word, and action of the said Nemecio Dominguez, on the place known by the name of the "La Brea," situated to the west of the city of Los Angeles, which place was granted in the year 1828 to the late Jose Antonio Rocha, and to the said Nemecio Dominguez; and this document is extended in the name of the party of the first part, his administrators, heirs, and whomsoever may represent his person, and in favor of the party of the second part, his heirs, and whomsoever may represent him; and, to perpetuate it, I have placed at the foot of these presents
18 my signature and a seal, which I use on the day that above appears.

(Signed.) NEMECIO his + mark. DOMINGUEZ. [SEAL.]

Witnesses:

The words "Santa Barbara" and "dicho puento" are marked out, and of no value; and the words "Los Angeles" and "Santa Barbara," interlined, are of value.

(Signed) EUGENE LIES.
(Signed) CASAMERA LURA.

Filed in office Novemb. 15, 1852.
(Signed) GEO. FISHER, *Sec'y.*

19 *Opinion by Commissioner S. B. Farwell.*

Claim for a place called "La Brea," in the county of Los Angeles.

ANTONIO JOSE ROCHA *et al* *vs.* THE UNITED STATES. } 487.

The present claimants claim title to the place in question, as heirs and assignees, from Antonio Jose Rocha and Nemecio Dominguez, and the said Rocha and Dominguez claimed by virtue of a grant issued by Jose Antonio Carrilla, alcalde of the Los Angeles district, bearing date the 8th day of April, 1838. There is no amount of land specified in the grant, nor any line established, and no description whatever, excepting the name, and that was the same place once occupied by one Neposnisino Alvarado; and nothing now appears by the testimony as to the description, amount, or locality, except that one of the witnesses swears that it is about two and a half leagues in an easterly direction from the city of Los Angeles.

We are therefore of the opinion that the claim is invalid, and a decree will be entered accordingly.

Rejected.

Filed in office March 6, 1855.

GEO. FISHER, *Sec'y.*

20 *Decree.*

ANTONIO JOSE ROCHA *et al*
vs.
THE UNITED STATES. } 487.

In this case, on hearing the proofs and allegations, it is adjudged by the commission, that the claim of the petitioner is not valid; and it is therefore decreed, that his application for a confirmation thereof be denied.

ALPHEUS FELSH,
R. AUG. THOMPSON,
S. B. FARWELL,
Commissioners.

Filed in office March 6, 1858.

GEO. FISHER, *Sec.*

21 *Order.*

And it appearing to the satisfaction of this board that the land hereby adjudicated is situated in the southern district of California, it is hereby ordered, that two transcripts of the proceedings, and of of the decisions in this case, and of the papers and evidence upon which the same are founded, be made out and duly certified by the secretary, one of which transcripts shall be filed with the clerk of the United States District Court for the southern district of California, and the other be transmitted to the Attorney General of the United States.

22 *Secretary's certificate.*

OFFICE OF THE BOARD OF COMMISSIONERS
TO ASCERTAIN AND SETTLE THE PRIVATE LAND
CLAIMS IN THE STATE OF CALIFORNIA.

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing twenty-one pages, numbered from 1 to 21, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings and of the decision of the said board, of the documentary evidence, and of the testimony of the witnesses, upon which the same is founded on file in this office in case No. 487, on the docket of the said board, wherein Antonio Rocha, *et al.*, are the claimants against the United States for the place known by the name of La Brea.

In testimony whereof, I hereunto set my hand and affix my private seal, (not having a seal of office,) at San Francisco, California, this twenty-first day of August, 1855, and of the independence of the United States of America the eightieth.

[SEAL.] GEO. FISHER.

23 In the United States District Court for the southern district of California.

Notice of appeal.

ANTONIO JOSE ROCHA, JOSE JARGE ROCHA, and Josefa de la Merced Rocha, appellants,
vs.
THE UNITED STATES, appellee.
} Case No. 287.—Transcript 487. La Brea.

Appeal from the decision of the board of commissioners to ascertain and settle the private land claims in the State of California, taken on the 4th day of October, 1855, by the said board having filed with the clerk of the above court, a certified transcript of their proceedings and decision in the said cause and of the papers and evidence, upon which the same are founded, said cause being No. 487 on the docket of said board.

Notice is hereby given that Antonio Jose Rocha, Jose Jorge Rocha, and Josefa de la Merced Rocha, appellants in the above-entitled cause, and claimants before the said board, in a claim for a tract of land called "La Brea," situated in the southern district of California, filed before said board, on the 15th day of November, 1852, and being No. 487 on the docket will prosecute the appeal herein from the
24 final judgment of said board entered on the 6th day of March, 1855, against said claimants and appellants.

J. R. SCOTT, *Attorney for Appellant.*

Endorsed: Filed Oct'r 15th, 1855.

C. E. CARR, *Clerk.*
By J. W. ROSE, *Dep'y.*

25 In the United States District Court, southern district of California.

Order for further testimony.

ANTONIO JOSE ROCHA, JOSE JARGE ROCHA, and Josefa de la Merced Rocha, appellant.
vs.
THE UNITED STATES, appellees.
} Case No. 287.—Transcript No. 487, La Brea.

On motion of Jonathan R. Scott, attorney for appellants, it is by the court:

Ordered, That further testimony may be taken in the above cause by either party.

Endorsed: Filed Oct'r 24, 1855.

C. E. CARR, *Clerk.*
By J. W. ROSE, *Dep'y.*

26

27 United States District Court, southern district of California.

Notice of motion to dismiss.

ANTONIO ROCHA, *et al.*, appellants, *vs.* THE UNITED STATES, appellee. } No. 287, dist. court La Brea.—No. 487 commission.

To J. R. SCOTT, Esq., *Attorney for Plaintiff.*

SIR: You will take notice on the 7th inst. a motion was filed in said court on behalf of the appellee to dismiss the above-entitled cause from the docket for want of prosecution, and that by order of the court the same will be heard on Thursday 20th January, 1859.

J. R. GITCHELL,
U. S. District Attorney.

U. S. ATTORNEY'S OFFICE, *Dec'r* 15, '58.

I served the within notice on J. R. Scott by giving him a copy of the same, personally, on Dec'r 17, 1858, in the city of Los Angeles.

JAMES C. PENNIE,
U. S. Marshal for South'n Dist. of California.

28 Endorsed: Filed Decemb. 18, '58.

C. SIM, *Cl'k.*
P'r W. W. STETSON,
Deputy.

29 In the District Court of the United States for the southern district of California.

Petition for review.

ANTONIO JOSE ROCHA, *et al.*, appellants, *vs.* THE UNITED STATES. } Case No. 287, "La Brea," transcript No. 487.

To the Hon. Isaac S. R. Ogier, Judge of the District Court of the United States, for the southern district of California:

The petition of the appellants in this case respectfully represents unto your honor—

That they claim, as owners, a certain tract of land, situate in the present county of Los Angeles, known as "La Brea," under and by virtue of a grant thereof, by the ayuntamiento of the pueblo of Los Angeles, of date April 8, 1828, and of long and peaceable occupation, since said date.

That said lands are situate in the southern district of California, and within the jurisdiction of your hon. court.

That your petitioners, on the 15th day of November, 1852, filed before the United States Board of Land Commissioners, to ascertain and settle private land claims in the State of California, while sitting as a board, their petition, praying for a confirmation of their
30 claim to said lands, together with documentary and parol evi-

dence in support of the same, to which petition and evidence, the appellants hereby refer for a further description of said lands.

That thereafter on the 8th day of March, 1855, the said board rendered its final decision in said case, the same being numbered 487 on the docket, rejecting the said claim of the petitioners, and adjudging the same to be invalid.

That thereafter, on the 4th day of October, 1855, an appeal was taken from said decision of said board, to your hon. court, by the said board, causing to be filed on that day, in the office of the clerk of said court, a certified transcript of their proceedings and decision, in said case, and of the papers and evidence, on which said decision was founded. All of which transcript the appellants hereby refer to, and pray to make the same a part of this, their petition.

That thereafter on the 15th day of October, 1855, and within six months after the filing of said transcript, the appellants filed in said clerk's office a notice of their intention to prosecute said appeal.

Wherefore, the appellants now come, and averring that their said claim is good, and that said decision rejecting the same is
31 erroneous, pray your hon. court to review the proceddings and decision of said board, in this case, and that said decision may be, by the judgment of this court, in all things reversed, and that the title of the appellants to said lands of "La Brea," may be decreed to be valid and confirmed to them, and for such other and further, or general relief, as shall be agreeable to equity and good conscience, or the nature of the case shall require.

SCOTT & SANDER,
Appellants' Attorneys.

Endorsed: Filed Jan'y 20, 1859, C. Sims, cl'k, pr. W. W. Stetson, deputy.

Marshall's return.

I hereby certify that I served the within petition on J. R. Getchell, U. S. att'y, by giving him, personally, a copy of the same, on Jan'y the 24th, 1859, in the city of Los Angeles.

JAMES C. PENNIE,
U. S. Marshall.

33 United States District Court, southern district of California.

Answer U. S. Att'y.

Appeal from U. S. Land Comm'r, docket No. 287, *No.* 487, *L. C.*

ANTONIO JOSE ROCHA *et al.*
vs.
THE UNITED STATES appellants.

Now comes J. R. Gitchell, attorney for the United States for the southern district of California, and for, and in behalf of, the United States, for answer to the petition of Antonio Jose Rocha *et al.* for

review of decision of land commissioners, says: That he denies all and singular, each and every, allegation in said petition contained. And further, this respondent denies generally the validity of the alledged title of the claimants to the lands claimed by them, or that a grant ever issued to them, for the land claimed.

And the said respondent prays that this honorable court will affirm the decision of the said United States land commissioners, in said case, and decree the said alledged title to be invalid.

J. R. GITCHELL,
Attorney for U. S. for the Southern Dist. of California.

34 Endorsed: Filed, Jan'y 27, 1859, C. Sims, clerk, pr. W. W. Stetson, Deputy.

35 U. S. District Court, southern district of California.

Decree of dismissal.

ANTONIO J. ROCHA *et al.* appellant,
vs.
THE UNITED STATES. } No. 287.

Now, on this day, comes the United States, by J. R. Gitchell, U. S. District Attorney, and the appellant, failing to appear, either in person or by attorney—

On motion of J. R. Gitchell, U. S. District Attorney, it is ordered, adjudged, and decreed, that this cause be, and the same is hereby dismissed, for want of prosecution, and that the decree of the U. S. Board of Land Commissioners, stand as a final decree.

TH'M'S K. OGIN,
U. S. Dist. Judge.

Endorsed: Filed this 8th August, 1860, C. Sims, Clerk.

37 *Notice of appearance of attorney.*

JOSE ANTONIO ROCHE *et al.* appellant
vs.
THE UNITED STATES appellee. } No. 287.

United States Dist. Court for the southern dist. of Califor.

To officers of same:

GENTLEMEN: You will please take notice that the undersigned hereby files information of his appearance as attorney for appellants in the above entitled cause.

HENRY HANCOCK.

Service acknowledged on this 22nd day of February, 1861.

J. R. GITCHELL,
U. S. Dist. Attorney.

Endorsed: Filed Feb'y 22nd, 1861, G. D. Mix, clerk, per John O. Wheeler, dep'y.

United States District Court for the Southern District of California.

Notice of motion for leave to file bill of review.

39 JOSE ANTONIO ROCHE *et al.*, appellants,
vs.
THE UNITED STATES, appellee. } No. 287.

To Col. J. R. GITCHELL, U. S. District Attorney for the above-named district:

SIR: You will please take notice that the undersigned will move this hon. court for leave to file a bill of review in the above-entitled cause.

Respectf'y yours,

HENRY HANCOCK,
Attorney for Appellants.

Service of the above acknowledged on this 22nd day of Febr'y, 1861.

J. R. GITCHELL,
U. S. District Attorney.

40 Endorsed: Feb'y 22d, 1861. G. D. Mix, clerk, pr. John O. Wheeler, dep'y.

41 *Traces of expediente from archives.*

GOB. PREFECTO DE ESTE DISTRITO:

Maria Josefa Alvarado de esta vicinidad y vindah del finado Antonio Rocha, ante V. S. con el devido respecto me presento y digo: Ine desdenal año de veinte y seis le pre consedido provicionalm'te ami finado marido, el parage que aperez en el adjunto diséno conosido con el nombre de la Brea distante de esta ciudad como dos leguas desde cuya tha, ha estado cubierto con ganado y caballada, y deseando aseguarar la subsistencia de mi numerosa familia, suplico a V. S. se sirva concederme la propiedad de dicho sitio mandando se me dela correspond'te posecion de el cuyo paraje se haya contiguo al nombrado rodeo de las aguas que pose enactualm'te los. sres. vejares: Por Tanto.

Aug' Abl 14 de 1840. Yuform el 2'o. Juez de Paz de esta ciudad sabre el contenedo en esta instancia con respecto a la solicitante, y vuelon a esta prefectma por sus ulteriores tramites.

Tapia

Narciso Botello, *Scrio.*

A. V. S. Rendidamente pido acsedo a' esta mi solisitud decretandola de conformidad, pues en ella resivire gracia ye Justicia que implo. Jurando no proseder de malicia y lo nesesario. Degnaridose admitir esta en papel comun por no haver del que corresponde.

CIUDAD DE LOS ANGELES, *April* 13 de 1840.

Aruego de mi hermana Josefa.

YGNO. MA. ALVARADO.

42 SOR. PREFECTO INTERINO:

Para darle su cumplim'to al decreto superior marginal fha. 14 del actual. Despues de haber hecho las aberiaquaciones que fueran necesariso, pase en companica de dos testigos de asistencia á reconocer

el terreno del que se halla agregado el correspondiente diseño del parage nombrado la Brea, y vi ser conforme con la instancia é igualm'te tener bienes suficientes con arreglo á ordenanza s'i V. S'a tubiere a bien creo no hay abstaculo para guese le conceda á quieno lo solicita.

ANGELES, *April* 28, *de* 1840.

JUAN B. LEANDRO.

EXMO. SOR. GOBERNADOR:

La Prefectura de este 2° Distrito, impuesta de las instancia y el informo qe anteceden creá g'l es de accederse a la solicitud de la interesado, si asi fuere del sup'or agrado de V. E. pries que á mas de tener la solicitante los bienes de campo suficientes pa cubrir el sitio g'l se menciona, es vinda cargada de familia.

ANG'S, *Mayo* 2 *de* 1840.

TIBURCIO TAPIA.

NARCISO BOTELLO, *Scrio.*

43 ANG'S, *May* 10, de 1840.

Conforme à'lo dipuestò pr el E. S. Gobernador, comunicado á esta Prefectura en nota de 27 de Abriel ultimo, respecto á q'l p'r acuerdo de la E. Junta departamental, quedan todos los par ges consedidos por ranchos en esta jurisdiccion, con el caracter de provicionales hasta q'l se arreglen los egidos de la ciud'd, hice saber aha. Sup'or disposicion a la interesada en el presente expediente, y quedo' impriesta.

TAPIA.

NARCISO BOTELLO, *Scrio.*

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES
For California.

I, J. W. Mandeville, surveyor general of the United States for the State of California, and, as such, having in my office, and in my charge and custody a portion of the archives of the former Spanish and Mexican territory, or department of Upper California, as
44 also the papers of the late board of commisioners to asscertaid and settle the private land-claims in California, by virtue of the power vested in me by law, do hereby certify that the four (4) preceding and hereunto annexed pages of tracing and written paper numbered from one to four, inclusive, exhibit a true, full and correct copy of pages 164 165, 166, and 167, of a book entitled "Departmental State Papers, Angeles '''Miscellaneous, Vol. XII.''' as the same appears on file among, and constitutes a portion of, said archives.

[SEAL.]

In testimony whereof, I have hereunto signed my name officially and caused my seal of office to be affixed, at the city of San Francisco, this 8th day of October, 1860.

J. W. MANDEVILLE,
U. S. Surveyor General of California.

Endorsed: Filed April 15, 1861.
C. L. MIX, *Clerk.*

ANGELES, *April* 14, 1840.

47 The 2 justices of the peace of this city, will inform upon what is contained in this petition, and with respect to the solicitant, and return it to this prefecture for further proceedings.

TAPIA.

NARCISO BOTELLO, *Secretary.*

Translation of expediente.

SENOR PREFECT: In order to comply with the superior marginal decree of the 14th inst., after having performed the necessary requisites, I went with two witnesses of assistance to examine the and which is shown in the annexed diseño of "La Brea," and see that it is in conformity with the petition, and that she has the stock required by ordinance to cover it. If your excellency shall deem it well, I believe there is no obstacle in the way of ceding it to her who solicits it.

ANGELES, *April* 28, 1840.

JUAN B. LEANDRY.

[Here follows map, marked page 45.]

48 EXCELLENT SENOR GOVERNOR: The prefecturate of this 2nd district being informed of the petition and the preceding information, believes that the request of the petitioner may be granted the interested party, if thus should be the superior pleasure of your excellency; and the petitioner, besides having a sufficient number of cattle cover the tract mentioned, is a widow encharged with a family.

ANGELES, *May* 2, 1840.

TIBURCIO TAPIA.

NARCISSO BOTELLO, *Secretary.*

ANGELES, *May* 10, 1840.

In conformity with the disposition of his excellency, the Senor Governor, communicated to this prefecturate, in note of the 27th of April last, with respect to the resolution of the Excellent Departmental Junta, all of the places ceded for ranchos of this jurisdiction, will remain of the character of provisional, until the ejedos of the city shall be regulated. I have made known the said superior disposition to the interested party to this petition, and he remained informed.

TAPIA.

NARCISSO BOTTELLO, *Secret.*

40 SENOR PREFECT OF THIS DISTRICT: I, Maria Josefa Alvarado, of this vicinity, and widow of the deceased Antonio Rocha, before your excellency with due respect, present myself, and say that since the year 1826, there was ceded to my deceased husband, provisionally, the place which appears in the adjoined desino, known by the name of "La

Brea," distant, from this city, about two leagues, from which date it has been covered by cattle and horses; and desiring to secure subsistence for my numerous family, I supplicate your excellency that you may serve me by ceding to me the property of the said sitio, commanding that there be given me the corresponding possession of it, which place is found contiguous to the one called Rodea de los Aguas, which the Senores Vejares actually occupy.

Wherefore I ask that your or excellency may give it to me according to this my request, and directing in conformity; then, in this, I shall receive that grace and justice which I ask, swearing that I do not proceed of malice but of necessity.

That you may admit this on common paper, for not having
50 that on which it should be made.

CITY OF LOS ANGELES, *April 13th*, 1840.

Signing for my sister, Josefa,

IGNACIO MA. ALVARADO.

Indorsed: Filed April 15, 1840. G. M. Mix, clerk.
Also, filed March 24, 1864.

JNO. O. WHEELER, *Clerk.*
By GEO. B. VAN NESS, *Dep'y.*

In the United States District Court in and for the southern dist. of California.

51 *Affidavit concerning newly discovered evidence.*

ANTONIO ROCHA *et al.* appellants,
vs.
THE UNITED STATES, appellee.
} No. 287, "La Brea."

Before Hon. J. S. K. Agier, district judge. December term of 1860.

Henry Hancock, of counsel, in the above-entitled cause, makes oath, and states that one of the appellants, to wit, George Rocha, some time in the month of April, 1860, made application to him, requesting affiant to undertake for him the prosecution of this cause as against the United States; that said appellant stated that he was in indigent circumstances; that affiant after having become satisfied that the attorneys of record had ceased to act for appellants, to wit, some time between the middle of August and the 20th of September,
1860, affiant, by vigilant search of the archives of the Ex.
52 Dept. of California, now under the custody of the United States surveyor general for the State of California, met with the evidence of the proceedings had by the said Ex. Dep. Gov't in the year 1840, in favor of appellants; a certified traced copy of which, together with its translation accompanies this affidavit; that the indices of the said archives, make no mention of the said evidence; and that the archive clerk, or keeper of the said archives was ignorant of the expediente in favor of the appellants in this cause, until, by

affiant, he was shown the same on pages 164, 165, 166, and 167, of a book, entitled "Departmental State Papers. Angeles. Miscellaneous, vol. XII," as the same appears on file among and constituting a portion of said archives; and that consequently, what might have been deemed due and diligent search of the said archives, might have been previously made without anything having been therein met with relating to the rights or title of appellants; that from an examination of the opinion of the Board of U. S. Land Commission, seen on page 53 of the transcript in this cause, it is apparent, that had the said board been possessed of the aforesaid newly discovered evidence a different result would have been had by them, and the claim would have been by them been confirmed; that the minutes of this honorable court disclose the fact that on the 8th day of August. this cause was dismissed for the want of prosecution, and consequently without having had its merits passed upon by this hon. court; that this claim is very meritorious, and one which by the aid of the said newly discovered ought to be entitled to a confirmation, and that the said evidence has been discovered since the dismissal of the cause, and further; that by ordinary diligence it was not susceptible of having been discovered before the said dismissal.

HENRY HANCOCK,
Counsel for Appellants.

Indorsed: Filed April 15, 1861. Geo. L. Mix, clerk.

55 *Affidavit of J. R. Scott.*

ANTONIO ROCHA *et al*
vs.
THE UNITED STATES. } No. 287.

In the matter of a motion for leave to file a bill of review.

Jonathan R. Scott, upon oath, states that when employed by claimants of the land, in this cause, he made an express search for evidence, in the archives in the custody of the U. S. Surv. Gen'l, pertaining to this case; and that he was, after diligent search thereof, unable to find any further evidence than is found embraced in the transcript; and further state than in the said search he was aided by the clerk of the archives.

J. R. SCOTT.

Sworn and subscribed before me, this 2d day of October, A. D. 1862.

JOHN O. WHEELER,
Clerk of U. S. District, San. Dist. of California.

Indorsed: filed Oct'r 2, 1862.

JOHN O. WHEELER,
Clerk.

In the United States District Court, Southern District of California.

57 *Petition for leave to file bill for review.*

Special term at Los Angeles, of 1862, before Hon. Fletcher M. Haight, U. S. Dist. Judge for South. Dist. of Calif'a.

ANTONIO ROCHA *et al*
vs.
THE UNITED STATES. } No. 287.

Petition for leave to file a bill of review.

Your petitioner respectfully represents that, on the 8th day of August, 1860, this cause was dismissed for want of prosecution, and that since that date, to wit, on or about the first of September 1860, claimants discovered amongst the ombued archives of the Ex. Dep't Gov't of Cal'a in custody of the U. S. Surveyor General for Calif., firstly a petition and map of the mother of claimants for the land claimed in this case, of date April 18th, 1840, with a marginal order of the prefect to whom said petition was addressed, to inform, in relation to same, of date April 14, 1840, followed by the infor-
58 mation of the 2°. Juez del Paz, in favor of the petitioner, and also followed by the communication of the Prefect Tiburcio Tapia to the Governor, of date May 2d, 1840, and further followed by a notice of the prefect, of date May 19, 1840, informing the petitioner that, in accordance with the disposition of the Junta Departemental, the Governor had suspended all grants in the vicinity of the city of Los Angeles until the lands belonging to the ejedo should be determined, the aforesaid papers constituting the expediente of one of the ancestors of the claimants, in her effort to procure title, under the colonization act of 1824.

Your petitioner further represents, that on the
the U. S. Land Commissioner delivered an opinion rejecting the claim, for the want of definite boundaries, which want is, by the newly discovered evidence, fully supplied, as will appear from the newly discovered evidence or expediente a certified copy, the same having been placed on file in this cause on the 15th day of April, 1861, together with two affidavits relative to the said evidence, one having been filed, on the 15th of April 1861, and the other on the of October, 1862.

59 Wherefore, your petitioners humbly pray that this, their petition for leave to file a bill of review, on the ground of newly discovered evidence, be granted, and will ever pray.

HENRY HANCOCK,
Counsel for Claimants.

Indorsed: filed Oct'r 4, 1862.

JOHN O. WHEELER,
Clerk.

61 *Order.*

U. S. District Court, in and for Southern District of California.

Special term of 1862, at Los Angeles, Ca.

JOSE ANTONIO ROCHA *et al.*
vs.
THE UNITED STATES. } No. 287.

The argument of counsel having been heard, and the papers and evidence upon which the same was founded having been duly considered by the court, it is hereby ordered, adjudged, and decreed that the petition of claimants for leave to file a bill of review in the above-entitled cause be, and is hereby, granted.

Indorsed: filed Oct'r 4, 1862.

JOHN O. WHEELER,
Clerk.

In the United States District Court in and for the southern district of California.

63 *Application for leave to take further testimony.*

Hon. Fletcher M. Haight, U. S. district judge.

Special term held at Los Angeles, 1860.

JOSE ANTONIO ROCHA *et al.*
vs.
UNITED STATES. } 287.

Now comes claimant by attorney, and moves this honorable court for an order granting leave to take further testimony in the above-entitled cause.

HENRY HANCOCK,
Counsel for Claimant.

Endorsed: Filed Oct'r 6, '62. John O. Wheeler, clerk.

64

In the U. S. District Court in and for the southern district of California.

65 *Order to take testimony.*

Special term of 1860, at Los Angeles.

JOSE ANTONIO ROCHA *et al.*
vs.
UNITED STATES. } 287.

Application for leave to take further testimony having been made in the above-entitled cause, it is hereby ordered that the same be, and is hereby, granted.

FLETCHER M. HAIGHT,
U. S. Judge Southern District of California.

66 Endorsed: Oct. 6, 1862. John O. Wheeler, clerk.

67 In the U. S. District Court in and for the southern district of California. Special term of 1860, held at Los Angeles.

Petition for review.

ANTONIO ROCHA *et al.*
vs.
THE UNITED STATES. } No. 287.

To Hon. Fletcher M. Haight, U. S. District Judge, in and for the southern district of California:

Your petitioners, claimants in the above-entitled cause, complaining, respectfully sheweth unto your honor, that on the 15th of November, 1852, at Los Angeles, California, Antonio Jose Rocha, for himself, Jose George Rocha, and Josefa de la Merced Jordan, daughter, and the only surviving heir of Roche de Jordan, deceased, filed a petition before the U. S. Land Commission, appointed under the act of Congress, approved on the 3d of March, 1851, for ascertaining and settling private land claims in the State of California, and, thereafter, certain documentary and testamentary evidence of their
68 title to the rancho La Brea, situate in the county of Los Angeles; that on the 6th day of March, 1855, the said commission delivered their opinion, rejecting the claim of your petitioners, which opinion seems to have been unfavorable to claimants, on the ground of a want of a sufficient description of the land, which will appear by the said opinion found on page 19 of the transcript in this cause, to which reference is hereby made, the said transcript of the proceedings, papers, and evidence, upon which the said opinion and decree rejecting the claim was made, having been filed in this hon. court on the 4th day of October, 1855.

Your petitioner further sheweth unto your honor, that on the 8th day of August, 1860, a decree was filed in this honorable court, dismissing the claim for want of prosecution; that soon thereafter, to wit, in the month of February, 1861, and during the next regular term of this hon. court thereafter, held at Los Angeles, your petitioners commenced their proceedings for the purpose of obtaining leave to file a bill of review for newly discovered evidence, which newly discovered evidence could not, by diligent search and reasonable effort, have been discovered prior to the decision of this
69 hon. court dismissing the cause, as aforesaid, for the reason that it was not included in the indices of archives of the former gov't, in the custody of the U. S. Surveyor General for California, but was, by extraordinary effort, by a party familiarly associated with the said archives, both indiced and unindiced, since 1852, found in one of the numerous books of unindiced papers of the ex-govt. of Californ. And your petitioners further respectfully showeth unto your honor, that upon the filing of certain affidavits, and the traced copy, duly certified by the U. S. Surveyor Gen'l, of the said newly-discovered evidence, and argument of counsel had on same, an order was made by your honor granting leave to file a bill of review, to wit, on the 4th day of October, 1862, in open court.

Your petitioners respectfully represent to your honor, that their claim is a good and valid claim, and one amply protected by the act of the 3d of March, 1851, by the Congress of the United States, for the ascertainment of private land claims in California, and therefore consider themselves aggrieved in not having had the same decreed to them.

Wherefore, your petitioners respectfully pray that your honor may review and reverse the decree heretofore rendered, rejecting their claim to the aforesaid rancho "La Brea," and declare the same
70 to be a good and valid claim, and that the same may be confirmed to them.

And your petitioners will ever humbly pray.

HENRY HANCOCK,
Counsel for claimants.

Endorsed: Filed Oct'r. 6, '62. John O. Wheeler, Clerk.

71 In the U. S. District Court in and for the southern district of California.

Respondent's answer.

ANTONIO ROCHA *et als.*, appellant,
vs.
THE UNITED STATES, appellee.
} No. 287.—La Brea.

To the Honorable Fletcher M. Haight, U. S. District Judge in and for the southern district of California:

Now comes the appellee, respondent herein, by R. C. Whiting, U. S. District Attorney for the southern district of California, and for answer to the pl'tffs bill of review herein filed, admit that on the 15th day of November, 1852, Antonio Jose Rocha, for himself and Jose Jorge Rocha, and Josefa de la Merced Jordan, filed a petition before the U. S. board of land commissioners, appointed under the act of Congress approved on the 3rd day of March, 1851, for ascertaining and settling private land claims in California, as stated in said bill of review, and that subsequently, to wit, on the 6th day of March, 1855, the said board of land commissioners rejected said claim of pl'tffs. Respondent denies that said claim was rejected solely
72 on the ground of the insufficiency of the description of the property or tract of land called "La Brea," a confirmation of which was sought by pl'tffs; and respondent avers that said decree of the board of land commissioners was based upon the total invalidity of pl'tffs claim, as well as the insufficiency of the description of the property to enable the U. S. Surveyor General to locate the same, if any sufficient title had been established therefor.

Respondent admits that on the 8th day of August, 1860, a decree was filed in this honorable court, dismissing the said plaintiffs claim to the tract of land called "La Brea," for want of prosecution, and denies that any petition for leave to file a bill of review herein was

filed with the clerk of this court before the 4th day of October, 1862, and denies that either the affidavit of Henry Hancock, filed April 15, 1861, the petition for review, filed Oct'r 4, 1862, or the bill of review, filed Oct'r 6, 1862, shows sufficient grounds for setting aside the decree of dismissal herein, or the decree of the board of land commissioners in said case.

The respondent admits that leave was given by this honorable court to the pl'tffs to file a bill of review, and that said bill of review was filed on the 6th day of October, 1862.

73 The respondent specifically denies each and every allegation set forth in said pl'tffs bill of review, except as herein admitted, and denies that pl'tffs claim to the tract of land called "La Brea," is good and valid, and are protected or contemplated by the act of Congress, approved March 3, 1851, and referred to in pl'ffs petition; and denies that pl'tffs are entitled to have the same confirmed to them by this honorable court, or that pl'ffs claim to the tract of land called "La Brea" is of any validity whatever; and the respondent prays that this honorable court will affirm the decision of the said board of U. S. land commissioners in said case, and decree the said pl'tffs title to the land called La Brea to be invalid.

B. C. WHITING,
U. S. District Attorney for the southern dist. of Califor.

Endorsed: Filed June 17, 1863. John O. Wheeler, Clerk.

74

75 To the District Court of the United States, southern district of California.

Notice to dismiss.

THE UNITED STATES, appelt's, *vs.* ANTONIO ROCHA, *et al.* appellees. } No. 287.

To HENRY HANCOCK, esq., counsel of appellant:

SIR: You will please take notice, that on the 13th day of October next, at 11 o'clock a. m. of said day, or as soon thereafter as the same can be heard at the United States court-house, in the city of Monterey, I will move the court to strike the above-entitled cause from the docket for want of prosecution.

Sep. 29, 1863.

ISAAC HARTMAN,
Special Counsel for Appellees.

Endorsed: Filed Oct'r 20, '63. John O. Wheeler, clerk.

76 The notice within, served by the delivery, personally, of a true copy of the same, on this the 7th day of October, 1863, to Henry Hancock, at Wilmington, Los Angeles county.

H. C. BARROWS, *U. S. M.*
By W. C. WASSON, *Deputy.*

77 In the District Court of the United States for the southern district of California.

Motion to dismiss bill of review.

THE UNITED STATES, appellees,
vs.
ANTONIO ROCHA, *et al.* appellants. } No. 287.

Now came the same appellees, by C. B. Whiting, U. S. district attorney for the southern district of California, and moves the court to rescind, and strike from the files and records in this cause, the bill of review filed herein on the 6th day of October of October, 1862, and all orders and other papers and proceedings relating thereto.

B. C. WHITING,
U. S. District Attorney.

Endorsed: Filed Oct'r 21, 1861. John O. Wheeler, clerk.

78

79 U. S. District Court, southern district of California, regular June term, 1863.

Notice of hearing.

ANTONIO ROCHA, *et al.* appellants,
vs.
THE UNITED STATES, appellees. } No. 287.

OCTOBER 21st, 1863.

Now comes the said appellees, by R. C. Whiting, U. S. district attorney for the southern district of California, and moves the court to rescind and strike from the files and records in this cause the bill of review filed herein on the 6th day of October, 1862, and all other papers and proceedings relating thereto.

Whereupon, it is ordered that said motion be set for hearing on the 1st day of the next term of this court, and that notice thereof be served on the appellants, at least twenty days before said day.

I hereby certify the above to be a true copy of the original, as it appears of record in my office.

[SEAL.]

JOHN O. WHEELER,
Clerk U. S. Dist. Court S. D. of Cal.

80 To ANTONIO ROCHA, et al., or their attorneys, greeting:

That notice that the motion set forth in the foregoing will be brought on to a hearing on the 1st day of the next term of said court in pursuance of its order.

JOHN O. WHEELER,
Clerk U. S. Dis. Court S. D. Cal.

Served the within on Antonia Rocha, by personally delivering to him a true copy of the same, in the city of San Angeles, on the 24th day of Nov., 1863.

H. D. BARROWS,
U. S. Marshal.

Endorsed: Filed Nov. 28, '63. John O. Wheeler, clerk.

81 United States District Court, southern district of California.

THURSDAY, *February 17th A. D.* 1864.

Present: F. M. Haight, judge.

ANTONIO ROCHA, *et al.*, appellants,
vs.
THE UNITED STATES, appellees.
} No. 287.—La Brea.

Now, on this day, came the parties into court, by their respective attorneys, and the motion pending in this case to dismiss is argued by the district attorney on part of the United States, and Henry Hancock, esq., for appellants, and the same is overruled and denied.

Whereupon, on motion of appellant's attorney, it is ordered that further testimony may be taken by either party before the clerk of this court.

A true copy from the minutes.

GEO. E. WHITNEY, *Clerk.*

82

83 In the District Court of the United States for the southern district of California.

Deposition of Antonio Vejar.

ANTONIO ROCHA, *et al.*, appellants,
vs.
THE UNITED STATES, appellees.
} 287.

THURSDAY, *March 17th*, 1864—12 *o'clock m.*

Be it known that on this 17th day of March, 1864, at the city of Los Angeles, in the southern dist. of California, came before me, George B. Van Ness, dep. clerk of the United States District Court for the southern district of California, and ex-officio United States Commissioner, duly authorized to take depositions to be used in the courts of the United States, Ricardo Vejar, a witness in behalf of the appellants in the above-entitled cause, now pending in the said court of the United States for the southern dis. of California, who being duly sworn, testified as follows, to wit:

Present H. Hancock, on behalf of the appellants, and the United States Attorney on behalf of the United States.

Henry D. Barrows being duly sworn to interpret Spanish
84 into English, and English into Spanish.

Question by clerk. What is your name, age, occupation and place of residence.

Answer. Ricardo Vejar; 55½ years; ranchero and laborer; rancho Nagales, in the county of Los Angeles.

Question by cl. How long have you lived on said rancho?

Ans. 14 years.

Ques. Where did you live prior to living on that rancho?

Ans. On the rancho of the Rodeo de los Agnos, and near the rancho of La Brea, of the deceased Portugese, Anto. Rocha.

Ques. How long since you lived on the Rancho de los Agnos?

Ans. About 10 years.

Question On which side of the rancho de La Brea is the rancho de los Agnos?

Ans. On the western side.

Ques. Do the two ranchos, La Brea and Agnos, adjoin each other?

Ans. They do; there is only a ditch or a creek between them, which is the line.

By clerk. You are now shown a traced copy of an expediente from the archives, filed in this cause April 15th, 1861. Look at the
85 diseno, or map therein contained, and say if you recognise certain natural objects delineated thereon, as for instance in the southeast corner of the same, mesa sanco connopales Sanj. Veaga, and aqu ja.

Ans. I recognise the sanco connopales, as being in the third ditch passed in going from Los Angeles to the rancho; am not certain that there are only three ditches between Los Angeles and the rancho, but am certain that the objects mentioned are on the last ditch passed in going from Los Angeles to the rancho house.

Ques. On which side of the road was the sanco and the nopales?

Ans. I did not recollect well, but I think it was on the right hand side going that way.

Ques. Within how many varas of the road were the nopales and the tree?

Ans. I do not recollect well, it was many years ago, but I think they might have been eight or ten varas.

86 Ques. Do you remember the objects marked thereon, nopalera Canada de Aliso, and another Canada de los Alisos, and another Canada de los Pareles Sierra Sierrega Aquaje to the west of the same Aliso, and Alisos, and Alisos being two together in the last instance, also in the southerly and westerly portion of the tract Sanja de Aqua?

Ans. I recollect all the objects marked thereon.

Ques. By this map the Gitio called La Brea is shown to b bounded on the west by lands of Vejar's. What lands were those lands of the Vejar's?

Ans. I was the owner, and they were called the Rhodeo de los Agnor.

Ques. Who was Antonio Rocha?

Ans. He was an old Portuguese, and the father of the Rochas, who now live in this county.

Ques. Is he now living or dead?

Ans. He has been dead many years.

Ques. What children had he?

Ans. I do not recollect well, but he had Antonio Jose, and Maria, the latter being the wife of Jordan, and another daughter, who I think is dead.

87 Ques. Who was the mother of these children?

Ans. Josefa Alvarado.

Ques. Who is Ynacio Maria Alvarado?

Ans. He is the brother of the deceased, Josefa Alvarado.

Ques. Was the deceased, Josefa Alvarado, the wife of the Portuguese Rocha?

Ans. Yes.

Ques. Which died first, Josefa, or her husband?

Ans. Her husband.

Ques. Who lived on the rancho La Brea during the years you were residing on the rancho Rodeo de los Agnos?

Ans. At first herdsman of Rocha, with their families, and afterwards a blacksmith, but I had charge of the rancho for Rocha, and Rocha himself was often there.

Cross-examination by U. S. Attorney:

Ques. Was Antonio Rocha, the deceased, a naturalized citizen of the Mexican government?

Ans. I can't say; he has been here many years.

Ques. Where did he reside during the time you knew him?

88 Ans. In the house where the jail now is, in the city of Los Angeles.

Ques. What families, if any, resided on the rancho La Brea during that time?

Ans. Pedro Lopez and his wife, now dead; Antonio Rosas and family, now dead; and an old man named Fragoso. And after that the blacksmith, who had no family.

Ques. Did the blacksmith carry on business on his own account?

Ans. He did.

Ques. What was the business of Lopez, Rosas, and Fragosa?

Ans. Taking care of cattle and horses.

Ques. Of your cattle and horses?

Ans. No, they belonged to the deceased Rocha; his rancho was on this side, and mine on the other.

Ques. Did Rocha ever live on the rancho and make it his place of residence?

Ans. No; he never lived there during his life time, but often went there mornings, and came back at nights; sometime slept there.

Ques. Who lives on the rancho La Brea now?

Ans. Don't know; it is a long time, 20 or 21 years, since I was there.

Ques. How far is that rancho from this city of Los Angeles?

89 Answer. About 7 miles.

Ques. Do you know of the Rocha family, or any of them, having any title to that land or papers purporting to be a title?

Ans. I do not.

Ques. How do you know that this map or desino represents the rancho de La Brea?

Ans. I know the land.

Ques. How do you know that the objects on this map represent the objects on the rancho La Brea any more than any other rancho?

Ans. Because I have seen the nopalara and canadas.

Ques. Have you not seen nopalaros and alisos on other ranchos in this country as well?

Ans. Yes; but this nopalaro is large and round, and the relation of these sycamores to the nopalaro is such that I recognize them.

Ques. Would you know that the trees shown on the map were such if your attention had not been called to them by Major Hancock?

(Above question objected to by counsel for appellants, as
90 being cumulative and irrelevant.)

Ans. I cannot read or write, but I recognize this map as being a representation of the rancho La Brea.

Ques. Point out on the map with your finger the road leading from Los Angeles to the rancho.

Ans. (The witness lays his finger on the bottom of the map near the sanja, and passes it, by the sanco or tree, over the words written Desino de Sitro to near the centre of the map, and makes a cross at the point nearly in front of the Canadá de los Sareles as being the place where the house to which the road led stood.)

Ques. Were any of the sanjanes that you speak of crossing in going from Los Angeles to the La Brea on the rancho of La Brea?

Ans. No; they were towards Los Angeles.

Direct resumed:

Ques. By Mr. Hancock: Was Donna Josefa Alvarado, the wife of Rocha, and mother of the claimants, a native of California?

A. Yes.

(Signed) RICARDO his X mark. VEJAR.

91 Subscribed and sworn to before me this 17th day of March, 1864.

JOHN O. WHEELER, *Clerk.*
And by GEORGE B. VAN NESS,
De'p. Ex., offico U. S. com., south dis., Cal.

Endorsed: Filed March 17, 1864. Jno. O. Wheeler, clerk. By Geo. B. Van Ness, dep. clerk.

93 In the District Court of the United States for the southern district of California.

Deposition of Juan Maria Sepulveda.

ANTONIO ROCHA
vs.
THE UNITED STATES. } 287.—La Brea.

Be it known that on this 22nd day of March, 1864, came before me, George B. Van Ness, deputy Clerk of the United States District Court of the southern district of California, duly appointed by an order entered on the minutes of said District Court on the 17th day of March, 1864, to take depositions to be used in the courts of the United States at the city of Los Angeles, Juan Maria Sepulveda, who being first duly sworn as a witness on the part of the claimant in the above-entitled cause, now pending in the said District Court of the United States in and for the southern district of California, who being duly sworn, deposes as follows, to wit, the United States dis. attorney for south. dis. of Cal. being present for the United States' Henry Hancock, esq., appearing as counsel and attorney for the claimant in the above-entitled cause.

94 J. J. Warner being sworn, as interpreter, to interpret correctly Spanish into English and English into Spanish.

Juan M. Sepulveda, being first duly sworn, deposes and says:

Ques. What is your name, age, occupation and place of residence?

Ans. Juan Maria Sepulveda; 34 years; cultivator of the soil in the county of Los Angeles, where I have always resided.

Ques. Tell what ranchos are west of the city of Los Angeles, and between it and the sea, and south of the Cahuenga or coast range of mountains?

Ans. The rancho of San Vicenti, Buenos Ayres, Vejar or Rodeo de los Agnas, the rancho of Rocha or La Brea, beginning at the coast, and following along the south side of the mountains to the city of Los Angeles.

Ques. How long had you known these ranchos?

Ans. From childhood.

Ques. Say what you know of the possession, occupancy, and ownership of the rancho La Brea; by whom it has been occupied;

95 and as to whether there has been houses and corrals there with cattle?

Ans. The rancho of La Brea was occupied by Rocha up to about 1846, since which time it had been sub-divided and occupied by different individuals. Rocha had a considerable number of cattle and horses, and also a corral on the rancho. This property was in the possession of Ricondt Vejar, as Rocha's agent, during the whole time of my acquaintance with the rancho up to some time previous to 1846.

Ques. What sub-division was made of the rancho, if any?

Ans. I said sub-division because I see it occupied now by several, say 8 or 10 persons.

Ques. Have those persons houses and corrals; and if so, how many houses are there, and by whom owned?

Ans. They have houses.

Ques. How many houses?

Ans. There are three or four belonging to the Valdizes; different houses belonging to different families, from fifty to one hundred yards
96 apart. One house belonging to Olivarez, 1 to Thompson, 2 to Antonio M. Valdez, and another one, of which I do not remember the owner.

Ques. Look at the desino filed in this case on the 15th day of April, 1861, and say where Thompson lives and where the Valdeze's live?

Ans. (Witness points about one inch nearly south of the letter S on the diseno, which letter S stands for south on a diagram representing the compass.)

Ques. Which way, and how far from where Thompson lives, are the houses of the Valdezes?

Ans. Nearly west or north-west, and about one mile distant.

Ques. Who had the best house and buildings on the rancho?

Ans. Thompson.

Ques. Which way, and how far from Thompson's house, is the house of Olivarez?

Ans. It lies more to the north from Thompson's house than the Valdez houses, and the distance is a little less.

Ques. Are there any other persons having houses on the rancho than those you have already named?

97 Ans. To the best of my recollection, there was none.

Ques. Do you know well the boundary line between the ranchos Rodes de los Agnas and La Brea?

Ans. I do not.

Cross-questions Col. Whiting, for U. S.:

Ques. Did Antonio Rocha ever live on that rancho himself?

Ans. I do not remember ever having known of his having lived there.

Ques. How do you know he owned it?

Ans. Because I saw his stock there; I saw the corral of his, and because everybody said it was his.

Ques. Do you know of your own personal knowledge who built the corral?

Ans. I do not know.

Ques. Did you see Rocha's stock on the other ranchos you have named also?

Ans. Not in such numbers as upon the rancho where the corral was, but I have seen cattle of his upon other ranchos.

Ques. Where did you live prior to 1846, how far from that rancho?

Ans. In this county, on my rancho, about 3 leagues from La Brea

rancho, excepting two or three years, during which I resided
98 on the rancho of Santa Ana.

Ques. What years were those years during which you lived on the rancho Santa Ana?

Ans. From 1846 to 1850.

Ques. How often were you at the rancho of La Brea prior to 1846?

Ans. Frequently in passing to my rancho, which is beyond the rancho af Rocha.

Direct resumed—Mr. Hancock:

Ques. On what rancho did Rocha hold his Rodeos?

Ans. He held them on the rancho of La Brea, but I do not know the limits of it.

Ques. Did you ever know of his holding rodeos on any other rancho, and about what number of cattle had he?

Ans. I did not; and I do not know of the number of cattle.

Cross. by Col. Whiting resumed:

Ques. Did you ever attend any rodeo on the La Brea rancho prior to 1846?

Ans. I did not; my brothers attended the rodeos previous to 1846.

99 JUAN M. SEPUVLEDA.

Sworn to and subscribed before me, at Los Angeles, this 22nd day ot March, 1864.

GEORGE B. VAN NESS, *Dep. clerk.*

And authorized to take depositions to be used in U. S. courts, by and order entered on the minutes of the Dis. Court of sou. dis. of Cal., on the 17th day of March, 1864.

Endorsed:—Filed March 22, 1864. John C. Wheeler, clerk, by Geo. B. Van Ness, deputy.

100

In the District of the United States for the southern district of California.

101 *Deposition of Andres Pico.*

ANTONIA ROCHA *vs.* THE UNITED STATES. } No. 287. "La Brea."

Be it known, that on this 22nd day of March, A. D. 1864, at the city of Los Angeles, in the southern district of California, came before me, George B. Van Ness, deputy clerk of the U. S. District Court for the southern district of Cal., duly authorized to take depositions, to be used in the courts of the United States, by an order of said Dist. Court, entered on the minutes of said court on the 17th

day of March, 1867, Andres Pico, a witness on behalf of claimant in the above-entitled cause, now pending in said District Court of the United States for the southern district of California, who, being duly sworn, deposes and says as follows, to wit:

The United States district attorney for the southern district of California, being present as attorney for the United States, and Henry Hancock, esq., appearing as counsel and attorney for the claimant in this cause.

J. J. Warner being sworn to interpret Spanish into English
102 and English into Spanish:

Andreas Pico, being duly sworn, deposes and says:

Direct examination by Major Hancock:

Ques. How old are you; what is your name, occupation, and place of residence?

Ans. Andreas Pico; 53 years of age; I reside in the county of Los Angeles, and I am a farmer.

Ques. Do you know the rancho called La Brea? If so, to whom it belonged prior to the occupation by the Americans of the country?

Ans. I do know. It belonged to Rocha. I knew it in 1834, in the possession of Antonio Rocha. He occupied it with cattle and horses. He had corrals upon it, and a house made of poles, set in the ground. In 1834 I went upon this rancho for the purpose of receiving cattle, which I had purchased of Antonio Rocha, and I received the cattle, upon his order, on the rancho. I was not upon the rancho from that time until the change of government.

Ques. You are now shown the map filed in this case on the
103 15th day of April, 1861. Look upon it, and say whether you know the natural objects thereon shewn.

Ans. I only know the places marked as Nopaleros and Canada de Alisos, and know them to be on the road from Cahuenga to Los Angeles.

Ques. Place your finger on the map, and show where the road runs.

Ans. The road passes on the south and west side of the Nopalero, and enters into the place marked Canada de Alisos. From the Nopaleros there are three roads leading towards the city of Los Angeles, running southerly.

Cross-examination by Col. Whiting:

Ques. At the time you received the cattle at La Brea, in 1834, was Antonio Rocha present?

Ans. He was not.

Ques. Was your receiving cattle there, by his order, all that you know of his ownership of the rancho?

Ans. I knew it was his rancho because, at the time I contracted for the cattle, Rocha told me I would have to go out to his rancho to receive them.

104 Ques. Is that all you know about the ownership?

Ans. I heard a number of people say that it was his rancho; and when I went to get the cattle, I know that he sent word to adjoining proprietors that he was going to make a rodeo, and they came to it, and spoke of its being a rodeo on Rocha's land.

Ques. About how many cattle did Rocha have at the time of this rodeo?

Ans. I do not know.

Ques. Did you ever see Rocha upon that rancho, or did he ever live there, to your knowledge?

Ans. I never saw him there, and don't know that he ever lived there. I have not been on the rancho since the time I got the cattle.

Ques. Are there such places on other ranchos as the Nopalaros and Canada de Alisos?

Ans. I do not know of any.

Ques. Are there not patches of cactus all over this country?

Ans. There are many; but this particular one has been known from olden time by the name of the nopalero. Any of the native
105 Californians, upon being told that a horse was at the nopalero, would know, without any explanation, where that place was, so universally is that name applied to this particular cactus patch.

ANDRES PICO.

I, George B. Van Ness, deputy clerk of the District Court of the United States for the southern district of California, certify that the above deposition was made, sworn, and subscribed to, before me, this 22nd day of March, 1864.

GEO. B. VAN NESS,
Dep. Clerk Dis. Court South. Dist. Cal.

Endorsed: Filed March 22, 1864. Jno. O. Wheeler, clerk, by Geo. B. Van Ness, dep. clerk.

106

In the District Court of the United Statas for the southern district of California.

107 *Deposition of J. J. Warner.*

ANTONIO ROCHA *et al.*
vs.
THE UNITED STATES. } 287. "La Brea."

Be it known, that on this 24th day of March, 1864, at the city of Los Angeles, before me, George B. Van Ness, deputy clerk of the United States District Court for the southern district of California, and duly authorised by an order of said court, entered on the minutes thereof on the 17th day of March, 1864, to take depositions, to be used in the United States courts, came J. J. Warner, a witness

on behalf of claimant in the above-entitled cause, now pending in said District Court of the United States for the southern district of California, who, being duly sworn, deposes and says as follows, to wit:

B. C. Whiting, U. S. district attorney for said southern district of California, on the part of the United States, and Henry Hancock, esq., appearing as attorney on the part of the claimants in the above-entitled cause, being present.

Direct examination by Major Hancock:

J. J. Warner, being duly sworn, says:

Ques. What is your name, age, occupation, and place of residence?

Ans. J. J. Warner; 56 years; laborer; city of Los Angeles. I have resided in California 32 years.

Ques. State if you know of any rancho called La Brea. If so, how long you may have known it, and to whom, according to the usages and customs of the country under the Mexican rule, has it, by common or general reputation, belonged?

(Col. Whiting objects to the question from the words "to whom" to the words "belonged.")

Ans. I do know of a rancho by that name, situated about six or eight miles to the westward of Los Angeles. I have known it since 1834, at which time, and for some ten years subsequent, it was known and recognized in the city of Los Angeles as the rancho of Antonio Rocha.

Ques. Was it, or was it not, occupied by him with stock and corrals, as also a house in the customary way of occupying ranchos at that period by people of this particular section of the country?

109 (The question is objected to by Colonel Whiting, U. S. dist. attorney, as leading.)

Ans. My knowledge of its occupancy was derived only from general report, from which source I know it was occuped with horses and cattle, and that he gave rodeos upon it in the same manner as other rancheros in this part of the territory. He resided in the city of Los Angeles with his family, as was the general custom with the rancheros living within five-and-twenty miles of the city. I do not know of his having any horses or corrals upon the ratch, never having visited the immediate locality where such houses or corrals were said to have existed.

Ques. Did any incident ever occur, pertaining to the occupancy of the rancho, by Rocha, which has ever brought the same to the particular notice of yourself and others; if so, state what and when?

Ans. Some time, not far from 1836, from the bell having been stolen from the bell-mare, with which his gentle horses ran upon
110 that ranch, he brought the mare into the city, and being a blacksmith, he placed a bell upon an iron strap, and rivetted the same around the mare's neck, and turned her back with his horses

upon the ranch, soon after which the mare was found decapitated and the bell missing.

Ques. What was the character of Rocha, as a citizen; was he a substantial citizen?

Ans. He was a pious man, quite a favorite with all the priests, a very industrious man, and one of the most respectable and esteemed citizens of Los Angeles, from the time of my first acquaintance with him in 1831, to the time of his death.

Ques. Look at the diseno of the expediente filed in this case, on the 15th of April, 1861, and say whether, by its scale, the residence of the Valdeze's alluded to in the disposition of Juan Mo. Sepulveda, taken the other day in this cause, wherein he states that they resided something like a mile west of the house of James Thompson,
111 and that said house of Thompson would be represented or fall on this diseno, at a point about an inch southerly of the place, marked "S," you having acted as an interpreter on that occasion, and say whether the said houses of the Valdezes would fall inside or outside of the lines of the La Brea rancho.

(This question is objected to by the United States attorney, upon the ground that it assumes that the witness knows the precise boundrys of the La Brea rancho, whereas he only testifies that he knew the rancho by reputation, and also upon the ground that the question is of a compound form, and embraces several distinct questions and hypotheses.)

Ans. They would not be embraced within the exterior lines, as shown on this diseno.

Ques. Have you any knowledge of maps or the art of surveying?

Ans. I know a map when I see it, and studied the art of surveying, and have practiced a little in California.

Cross-examination by Col. Whiting, U. S. attorney:

Ques. Did you see the bell-mare of Rocha, or do you only
112 speak of it from what others told you?

Ans. I did not see the mare at the time the iron strap was put on her neck, or after. I only know the circumstance from general report.

Ques. Were you ever upon this rancho, or do you know of your own personal knowledge the boundarys?

Ans. I have been upon the rancho frequently, but have no knowledge of its boundaries.

Ques. Were you upon the rancho, between 1834 and 1844?

Ans. I passed over some portions of it repeatedly.

Ques. Did you ever see Ant. Rocha there?

Ans. Never.

Ques. All you know of the ownership, then, is what you have heard other people say, is it?

Ans. Yes. What I have heard people say for a long number of years.

J. J. WARNER.

Subscribed and sworn to before me this 24th day of March, 1864.

GEO. B. VAN NESS, *Dep. Clerk*.

U. S. Dis. Court, southern dist. Cal., and duly authorized to take depositions to be used in the U. S. Courts.

Endorsed: Filed March 24, 1864. Jno. O. Wheeler, clerk, by Geo. R. Van Ness, dep. clerk.

113 In the United States District Court, in and for the southern district of California.

Affidavit of Henry Hancock.

ANTONIO JOSE ROCHA, *et al.* *vs.* THE UNITED STATES. } No. 287, "La Brea."—In matter of title.

Henry Hancock, upon oath, states that he is acquainted with the land claimed in this case, as also with the natural objects shown on the desino, including the napolero mentioned by Andreas Pico, in his deposition on file, and the sonco, in that of Ricardo Vejar; and further, that in 1858, he executed the final survey of the pueblo lands of the city of Los Angeles, and that the said Napolero and sonco, in the direction of the said city lands, are some distance west of the lines of the survey of the said city lands, and that none of the land claimed in this case fall inside of, or conflict with, the land finally confirmed to and surveyed for said pueblo.

HENRY HANCOCK.

Sworn and subscibed to before me this 30th day of November, A. D. 1864.

JOHN O. WHEELER, *Clerk.*
By ROBERT HAIGHT, *Dep.*

114 It is hereby stipulated, by and between undersigned, that the within affidavit be filed with, and taken as evidence in, the within-entitled cause.

B. C. WHITING,
Attorney for U. S.
HENRY HANCOCK,
Attorney for Claimant.

Endorsed: Filed November 29, 1864. John O. Wheeler, clerk, by Robert Haight, dep.

115 In the United States District Court, in and for the southern district of California.

Decree reversing decision of the U. S. land commissioners.

ANTONIO JOSE ROCHE, *et al.*, appellants, *vs.* THE UNITED STATES, appellee. } No. 287, "La Brea."—Trans. No. 487.

This cause coming on to be heard on bill of review, to set aside decree of dismissal in this court, and an appeal from the decision of

upon the ranch, soon after which the mare was found decapitated and the bell missing.

Ques. What was the character of Rocha, as a citizen; was he a substantial citizen?

Ans. He was a pious man, quite a favorite with all the priests, a very industrious man, and one of the most respectable and esteemed citizens of Los Angeles, from the time of my first acquaintance with him in 1831, to the time of his death.

Ques. Look at the diseno of the expediente filed in this case, on the 15th of April, 1861, and say whether, by its scale, the residence of the Valdeze's alluded to in the disposition of Juan Mo. Sepulveda, taken the other day in this cause, wherein he states that they resided something like a mile west of the house of James Thompson,
111 and that said house of Thompson would be represented or fall on this diseno, at a point about an inch southerly of the place, marked "S," you having acted as an interpreter on that occasion, and say whether the said houses of the Valdezes would fall inside or outside of the lines of the La Brea rancho.

(This question is objected to by the United States attorney, upon the ground that it assumes that the witness knows the precise boundrys of the La Brea rancho, whereas he only testifies that he knew the rancho by reputation, and also upon the ground that the question is of a compound form, and embraces several distinct questions and hypotheses.)

Ans. They would not be embraced within the exterior lines, as shown on this diseno.

Ques. Have you any knowledge of maps or the art of surveying?

Ans. I know a map when I see it, and studied the art of surveying, and have practiced a little in California.

Cross-examination by Col. Whiting, U. S. attorney:

Ques. Did you see the bell-mare of Rocha, or do you only
112 speak of it from what others told you?

Ans. I did not see the mare at the time the iron strap was put on her neck, or after. I only know the circumstance from general report.

Ques. Were you ever upon this rancho, or do you know of your own personal knowledge the boundarys?

Ans. I have been upon the rancho frequently, but have no knowledge of its boundaries.

Ques. Were you upon the rancho, between 1834 and 1844?

Ans. I passed over some portions of it repeatedly.

Ques. Did you ever see Ant. Rocha there?

Ans. Never.

Ques. All you know of the ownership, then, is what you have heard other people say, is it?

Ans. Yes. What I have heard people say for a long number of years.

J. J. WARNER.

Subscribed and sworn to before me this 24th day of March, 1864.

GEO. B. VAN NESS, *Dep. Clerk*.

U. S. Dis. Court, southern dist. Cal., and duly authorized to take depositions to be used in the U. S. Courts.

Endorsed: Filed March 24, 1864. Jno. O. Wheeler, clerk, by Geo. R. Van Ness, dep. clerk.

113 In the United States District Court, in and for the southern district of California.

Affidavit of Henry Hancock.

ANTONIO JOSE ROCHA, *et al.*, *vs.* THE UNITED STATES. } No. 287, "La Brea."—In matter of title.

Henry Hancock, upon oath, states that he is acquainted with the land claimed in this case, as also with the natural objects shown on the desino, including the napolero mentioned by Andreas Pico, in his deposition on file, and the sonco, in that of Ricardo Vejar; and further, that in 1858, he executed the final survey of the pueblo lands of the city of Los Angeles, and that the said Napolero and sonco, in the direction of the said city lands, are some distance west of the lines of the survey of the said city lands, and that none of the land claimed in this case fall inside of, or conflict with, the land finally confirmed to and surveyed for said pueblo.

HENRY HANCOCK.

Sworn and subscibed to before me this 30th day of November, A. D. 1864.

JOHN O. WHEELER, *Clerk.*
By ROBERT HAIGHT, *Dep.*

114 It is hereby stipulated, by and between undersigned, that the within affidavit be filed with, and taken as evidence in, the within-entitled cause.

B. C. WHITING,
Attorney for U. S.
HENRY HANCOCK,
Attorney for Claimant.

Endorsed: Filed November 29, 1864. John O. Wheeler, clerk, by Robert Haight, dep.

115 In the United States District Court, in and for the southern district of California.

Decree reversing decision of the U. S. land commissioners.

ANTONIO JOSE ROCHE, *et al.*, appellants, *vs.* THE UNITED STATES, appellee. } No. 287, "La Brea."—Trans. No. 487.

This cause coming on to be heard on bill of review, to set aside decree of dismissal in this court, and an appeal from the decision of

the United States board of land commissioners, to ascertain and settle private land claims in the State of California, on a transcript of the proceedings and decision of the board; and on the papers and evidence on which said decision was founded, and on additional testimony taken in this court; and it appearing that said transcript and notice of appeal have been duly filed according to law, and counsel for the respective parties having been , it is hereby ordered, adjudged, and decreed; that the decree of dismissal be set aside, and the decision of the said board of land commissioners be, and the same is hereby, reversed; and it is further adjudged and decreed, that
116 the claim of the above-named appellants is a good and valid claim, and further, that the same is hereby confirmed for the said rancho "La Brea."

The land whereof confimation is hereby made is situate in the county of Los Angeles, and known by the name of La Brea, or the Rocha rancho, and is bounded on the west by the rancho "Rodeo de las Agnas;" on the north by the mountain; and on the east and south by the lines shown by the desino, or map of the expediente on file in this case, and embraces the lands and natural objects thereon delineated, but in no case to exceed one square league of land, provided that the said tract of land, thus described, contains a less quantity than one square league, then confimation is hereby made to said less quantity.

This done and signed in open court, on this eighth day of December, 1864.

FLETCHER M. HAIGHT,
U. S. Dist. Judge for the Southern Dist. of Cal.

Endorsed: Filed Decemb. 6, '64. John O. Wheeler, clerk, by Robert Haight, dep't.

United States District Court, southern district of California.

117 *Petition to show cause against order of appeal.*

The President of the United States to Antonio Rocha, Jarge Rocha, their legal representatives, greeting:

Whereas, in the District Court for the southern district of California, a decree was rendered on the day of , A. D. 186 , confirming the land claimed as rancho La Brea; and whereas, the United States, by their attorney, has prayed for an order of appeal therefrom to the Supreme Court of the United States:

Now, therefore, you are hereby cited to appear at said court on the first day of the October term, 1865, or so soon thereafter as the same may be heard, to show cause, if any you have, why said application for an appeal should not be allowed, and hereof fail not.

Witness the Hon. Salmon P. Chase, U. S. Supreme Judge, and the seal of said Dist. Court attached, this 5th June, A. D. 1865.

Attest: JOHN O. WHEELER, *Clerk.* [SEAL.]

118 I hereby accept service of the within citation at Monterey, California, on this 10th day of July, 1865.

HENRY HANCOCK,
Attorney for Claim't.

Endorsed: Filed July 10, 1865. John O. Wheeler, clerk.

119 United States District Court, southern district of California.

Present, Hon. F. M. Haight, judge.

ANTONIO ROCHA *et al.*
vs.
THE UNITED STATES. } No. 287.

MONDAY, *December 4th*, 1865.

Now, at this day, comes the district attorney, B. C. Whiting, esq., on behalf of the United States, and moves the court to grant an appeal from the decree of this court confirming the claim in this cause to the Supreme Court of the United States. And it appearing that a citation has been duly served upon the claimant, and a return made thereon, and the claimant failing to appear in person, or by attorney, said motion is granted.

And it is ordered that an appeal from the decree of confirmation rendered in this court in said cause to the United States Supreme Court, be, and the same is hereby, granted to the United States.

120 A true copy from the minutes.

GEO. E. WHITNEY, *Clerk.*

122 *Mandate Supreme Court United States.*

UNITED STATES OF AMERICA, *ss:*

The President of the United States of America to the honorable the Judge of the District Court of the United States for the district of California, greeting:

Whereas, lately, in the District Court of the United States for the southern district of California, in a cause between Antonio Jose Rocha *et als.*, appellants, and the United States, appellees, wherein the decree of said District Court entered on the 8th day of December, 1864, is in the following words:

"This cause coming on to be heard on bill of review, to set aside decree of dismissal in this court, and on appeal from the decision of the United States board of land commissioners to ascertain and settle private land claims in the State of California, on a transcript of the proceedings and decision of said board, and on the papers and evidences on which said decision was founded, and on additional testimony taken in this court; and it appearing that said transcript and notice of appeal have been duly filed according to law,

and counsel for the respective parties having been heard,
122 it is hereby ordered, adjudged, and decreed, that the decree of dismissal be set aside, and the decision of the said board of land commissioners be, and the same is hereby, reversed; and it is further adjudged and decreed, that the claim of the above-named appellants, it is a good and valid claim; and further, that the same is hereby confirmed for the said rancho "La Brea."

"The land whereof confirmation is hereby made is situate in the county of Los Angeles, and known by the name of La Brea, on the Rocha Rancho, and is bounded on the west by the rancho 'Rodeo de las Agnas' on the north by mountains; and on the east and south by the lines shown by the diseno or map of the expediente, on file in this case, and embraces the lands and natural objects therein delineated, but in no case to exceed one square league of land, provided that the said tract of land thus described contains a less quantity than one square league, the confirmation is hereby made to said less quantity," as by the inspection of the transcript of the record of the said District Court which was brought into the Supreme Court of the United States, by virtue of an appeal agreeably to the act of Congress in such case made and provided, fully and at large appears.

And whereas, in the present term of December, in the year
123 of our Lord one thousand eight hundred and sixty-six, the said cause came on to be heard before the said Supreme Court, on the said transcript of the record, on the motion of the Attorney General Stanbery, of counsel for the appellants, it is now here ordered, adjudged, and decreed by this court, that this appeal be, and the same is hereby, dismissed, without prejudice to appellant's right to take a new appeal.

And it is further ordered, adjudged, and decreed that this cause be, and the same is hereby, remanded to the District Court of the United States for the district of California, 21 Feb.

You, therefore, are hereby commanded that such proceedings be had in said cause, as according to right and justice and the laws of the United States ought to be had, the said appeal notwithstanding.

Witness the Honorable Salmon P. Chase, Chief Justice of said Supreme Court, the first Monday of December, in the year of our Lord one thousand eight hundred and sixty-six.

Costs of ..... $
Clerk. .....
Attorney .....

$

Taxed by—

[SEAL.] D. W. MIDDLETON.
Clerk of the Supreme Court of the United States.

124 Endorsed: Filed September 18, 1867. Geo. E. Whitney, clerk, by S. Neal, dep. clerk.

United States District Court, district of California.

125 *Notice.*

ANTONIO ROCHA *et al.*
vs.
THE UNITED STATES. } No. 287.

HENRY HANCOCK, esq., attorney for claimants:

You will please take notice that the mandate from the Supreme Court of the United States in the above case will be filed in the District Court of the United States, at 11 o'clock a. m., on the 18th day of September, A. D. 1867, and that a motion will be made at that time for a new appeal on behalf of the United States.

Yours, &c.,

DELOS LAKE,
U. S. Attorney.

Endorsed: Filed Sep. 18, 1867. Geo. E. Whitney, cl'k. By S. Neal, D. C.

Admission of service.

Service of copy of the within notice admitted this 17th day of September, A. D. 1867.

HENRY HANCOCK,
126 *Att'y for Claimants.*

127 At a stated term of the District Court [of the District Court] of the United States, district of California, held in the city of San Francisco, on Wednesday, September 18th, A. D. 1867.

Present, Hon. Ogden Hoffman, U. S. district judge.

ANTONIO ROCHA
vs.
THE UNITED STATES. } Southern district.

And now, at this day, on motion of Robert F. Morrison, assistant U. S. district attorney, ordered that the mandate of the Supreme Court of the United States in this cause be filed.

And on like motion, ordered that a new appeal on behalf of the United States be granted herein.

A true copy from the minutes.

GEO. E. WHITNEY, *Clerk.*

128

United States District Court, district of California.

129 *Citation.*

ANTONIA ROCHA *et al.*
vs.
THE UNITED STATES. } No. 287.

UNITED STATES OF AMERICA, *ss*:

To ANTONIO ROCHA, JARGE ROCHA, their legal representatives or attorneys, greeting:

Whereas the United States, defendants and appellants, by their attorney, have appealed to the Supreme Court of the United States from a decree rendered on the 8th day of December, A. D. 1864, in the District Court of the United States for the southern district of California, confirming to the above-named claimants the land known and described on the rancho la Brea, situate in the then southern district of California:

Now, therefore, you are hereby cited to appear before the said Supreme Court, at the city of Washington, on the first Monday in December next, to do and receive what may appertain to justice to be done in the premises.

Witness the Honorable Salmon P. Chase, Chief Justice of the
130 Supreme Court of the United States, this first day of October, A. D. 1867, and of the independence of the United States the ninety-first.

OGDEN HOFFMAN,
District Judge.

Due service is admitted.

Oct'r 14, 1867. HENRY HANCOCK,
Attorney for Claimants.

Endorsed: Filed Oct'r 19, 1867. G. E. Whitney, lerck. For John O. Wheeler, dep'y.

United States District Court, district of California.

THE UNITED STATES
vs.
ANTONIO ROCHA *et al.*

I, George E. Whitney, clerk of the Circuit Court of the United States for the district of California, and ex-officio clerk of the District Court of the United States for said district, do hereby certify that the foregoing one hundred and thirty pages contain a full, true, and correct copy and transcript of the record in the above-entitled case now remaining of record and on file in my office.

Witness my hand and the seal of said District Court this 8th day of November, A. D. 1867.

[SEAL.] GEO. E. WHITNEY, *Clerk.*